

REMARKS

The Office Action dated January 18, 2008 has been carefully considered. Claims 1 and 19 have been amended. Claims 1, 2, 8-10 and 12-19 are in this application.

Claim 1 was provisionally rejected on the ground of non-statutory obviousness-type double patenting in view of co-pending U.S. Patent Application No. 09/790,015. Applicants hereby submit a terminal disclaimer for overcoming this rejection.

The previously presented claims were rejected under 35 U.S.C. § 103 as obvious in view of U.S. Patent No. 5,440,961 to Lucas, Jr. et al. in view of U.S. Patent No. 5,440,961 to Wankow with supporting evidence from one or more of U.S. Patent No. 5,524,515 to Boda, U.S. Patent No. 4,210,043 to Urion et al., U.S. Patent No. 5,036,740 to Tsai and U.S. Patent No. 5,398,576 to Chiu. Applicants submit that the teachings of these references do not teach or suggest the invention defined by the amended claims.

Applicants and Applicants' attorney thank the Examiner for the courtesies extended during a March 4, 2008 interview. Applicants submit that the substance of the interview was that the combination of references, as made final, was affirmed by the Examiner. The Examiner indicated willingness to consider hard evidence of secondary considerations including failure of others, commercial success and copying by others.

As noted by the Declaration of Paul Vegliante submitted herewith, the slide cutter product corresponding to at least claim 1 of the present application has achieved commercial success with zero marketing dollars spent in marketing of the slide cutter product. AEP, the assignee of the slide cutter product, has sales of three million pieces per year. Although competitors have filed for numerous patent applications, the four of five major companies marketing the slide cutter have copied the slide cutter product and are selling duplicates of the AEP slide cutter product. The slide cutter product and duplicate slide cutter products are sold in at least 22 countries in the world. An important feature highly appreciated by the customers and users is the functioning of the slide cutter product based on the cling of the plastic wrap to the cutter to enable the plastic wrap to be held in place before, after and during cutting of the plastic wrap.

Lucas, Jr. et al. do not teach or suggest a film cutter apparatus including rails made from polyvinyl chloride with plasticizer. Further, Lucas, Jr. et al. and Wankow do not teach the amount of plasticizer in the polyvinyl chloride being at least 10 percent.

Wankow discloses a dispensing carton for a roll of sheet material including a clear vinyl spot of material attached to the dispensing carton to hold the film from falling back into the box. A cutter bar of a saw tooth metal strip is positioned proximate to the lower edge of the front wall. The sheet of material is brought into contact with the vinyl spots and torn by the cutter bar.

Applicants submit that neither Lucas, Jr. et al. nor Wankow teach the attractive material of the present invention of polyvinyl comprising at least 10% plasticizer. Rather, Lucas, Jr. et al. is directed to an adhesive polyurethane tape and Wankow is directed to a clear vinyl spot. In addition, Wankow teaches in Example I, a liquid formulation with less than 10% plasticization which teaches away from the present invention, including at least 10% plasticization, and therefore Wankow does not provide the attraction defined by the present claims. The Examiner indicated that it would be obvious to one of ordinary skill in the art to provide at least 10% plasticizer. However, Applicants submit that one of ordinary skill in the art would not increase the amount of plasticizer following the teachings of Wankow since Wankow teaches a reduced amount of plasticizer. Accordingly, neither of these references teach a rail formed of the material of the present invention.

Furthermore, in contrast to the invention defined by the present claims, neither Lucas, Jr. et al. nor Wankow teach or suggest a rail formed of a material for providing attraction to plastic wrap received over the rails for clinging the plastic wrap to the rails before, during and after cutting by sliding a blade within a channel formed between the rails. The Examiner indicated that a person of ordinary skill in the art would recognize it would be advantageous to use the known property of vinyl attraction to retain the film in place during roll style cutting. However, there is no teaching or suggestion in Wankow of forming a rail from a material which provides attraction. In Lucas, Jr. et al., a non-slip surface formed of urethane tape is adhered a surface of the guide. However, similar to Wankow, there is no teaching or suggestion of forming a rail from a material which provides attraction. Thus, neither reference teaches or suggests forming a rail from a first material which provides attraction to the film.

Further, neither of the references teach the structure of a rail having cling properties to provide durability properties which is coextruded with a second material having rigidity. The present invention has the advantage that the rails continuously have the property of attraction to film before, during and after cutting of the film to the cutter apparatus during use and for the lifetime of the film cutter apparatus. The Supreme Court recently explained that "a patent composed of several elements is not proved obvious merely by demonstrating that each of its elements was, independently, known in the prior art. *KSR Int'l Co., v. Teleflex, Inc.* ---U.S.---, ---, 127 S.Ct. 1727, 1741, 167 F.Ed.2d 705, --- (2007). "[I]t can be important to identify a reason that would have prompted a person of ordinary skill in the relevant field to combine the elements in the way the claimed new invention does." *Id.* Applicants submit that there is no reason that would have prompted one of ordinary skill in the art to combine the vinyl spots adhered to the side of a dispenser box of Wankow to adherence of the vinyl spots on a rail and even if the reference were combined the combination does not teach forming the rail itself formed by coextrusion, not simply adherence of a material to the rail, from a material to provide attraction to plastic wrap. In contrast, the urethane tape or vinyl spots adhered to a surface of a rail or dispenser box can lose this adherence and can be removed from the box during continuous use.

Furthermore, neither Lucas, Jr. et al. nor Wankow teach a blade housing sliding within a channel formed between the rails and having a blade angled from a bottom edge of a blade housing. Rather, Wankow is directed to a saw tooth metal edge for tearing or serrating the film rather than cutting of the film with a slide cutter. Similarly, Lucas, Jr. et al. teach a star cutter and do not teach or suggest a blade angled from a bottom edge of a blade housing. Accordingly, the invention defined by the present claims is not obvious in view of Lucas, Jr., et al. in combination with Wankow.

Boda teaches a paper cutter assembly including a unitary base and rail arranged at right angles to each other. The rail assembly is in the form of a right angle extrusion. The angular construction provides a rigid structure throughout its length. However, Boda does not teach or suggest a coextrusion to form a rail material which provides an attraction to a plastic wrap and a base of a rigid material. Further, Boda does not teach or suggest coextrusion of a material of polyvinyl chloride having at least 10% plasticizer and a material or rigid vinyl or PVC. The selection of the materials has the advantages of providing a material for a rail having cling

properties and a material for a rail base having durability properties. There is no teaching or suggestion of these advantages in Boda. Accordingly, the invention defined by the present claims is not obvious in view of Lucas, Jr. et al. and Wankow in combination with Boda.

Urion teaches a cutting assembly by injection molding of side segments and upper wall segments at an angle relative to the position of the completed article. However, Urion does not teach or suggest a coextrusion to form a rail of a material which provides an attraction to a plastic wrap and a base of a rigid material. Rather, Urion is directed to injection molding which is unrelated to the coextrusion method of the present invention. Accordingly, the invention defined by the present claims is not obvious in view of Lucas, Jr. et al. and Wankow in combination with Urion.

Tsai teaches a roller pressed film cutter apparatus. Four rollers are rotatably moving in a track. Film is pulled across the track and upon pushing of the slide holder the rollers will press and tension the film against the track. Stoppers 14 are opposed on opposite ends of the track.

In contrast to the invention defined by the present claims, Tsai does not teach or suggest rails being formed of a material providing an attraction to film received over the rails to cling the plastic wrap before, during and after cutting of the plastic wrap. In addition, Tsai does not teach or suggest end caps which release upon application of excessive force. Accordingly, Tsai does not cure the deficiencies of Lucas, Jr. et al. or Wankow noted above and the invention defined by the present claims is not obvious in view of Lucas, Jr. et al. and Wankow in combination with Tsai.

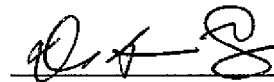
Chiu discloses a cutting device for a roll of film including a cutter placed on a positioning unit. A guide unit includes two vertical plates projecting downwardly from the rear portion of the cutter through the slot and two horizontal plates that project outwardly from the lower edge of the vertical plates. The length of the vertical plates is slightly longer than the thickness of the top wall of the positioning unit so that the front portion of the sliding body can turn somewhat upwardly to facilitate cutting of the protective film by the cutting edge of the blade. The positioning unit further includes an upright front stop plate which is mounted securely on the front end portions of the side and top walls of the positioning unit, and an upright rear stop plate which is mounted removably on the rear end portions of the side and top walls of the positioning unit so as to permit removal of the cutter from the positioning unit.

In contrast to the invention defined by the present claims as noted above, Chiu does not teach or suggest rails being formed of a material providing an attraction to plastic wrap received over the rails to cling the plastic wrap to the rails before, during and after cutting of the plastic wrap. Further, Chiu does not teach or suggest that a blade is angled in a blade housing. Rather, Chiu uses the shape of the cutter to allow the sliding body to turn upward in order to prevent bunching of the film. Thus, Chiu does not cure the deficiencies of Lucas, Jr. et al. and Wankow noted above. Accordingly, the invention defined by the present claims is not obvious in view of Lucas, Jr. et al. and Wankow in combination with Chiu.

In view of the foregoing, Applicants submit that all pending claims are in condition for allowance and request that all claims be allowed. The Examiner is invited to contact the undersigned should he believe that this would expedite prosecution of this application. It is believed that no fee is required. The Commissioner is authorized to charge any deficiency or credit any overpayment to Deposit Account No. 13-2165.

Respectfully submitted,

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